

# Exhibit 69

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE JACQUELINE SCOTT CORLEY, MAGISTRATE JUDGE

IN RE: FACEBOOK, INC. CONSUMER )  
PRIVACY USER PROFILE LITIGATION. ) NO. 18-MD-2843 VC (JSC)  
San Francisco, California  
Monday, July 13, 2020

**TRANSCRIPT OF ZOOM VIDEOCONFERENCE PROCEEDINGS**

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(Appearances continued, next page)

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1 to 2015. It's been ongoing since that time.

2 And first, plaintiffs wanted every single document  
3 relating to that internal investigation, including my law  
4 firm's files. That was obviously overbroad.

5 To be clear, we are producing documents relating to this  
6 investigation. What I mean by that, Your Honor, is when my law  
7 firm, working with Facebook and outside consultants, discovered  
8 activity prior to 2015 involving third-party apps that it  
9 wanted to follow up with, and communicated with those  
10 third-party apps, those communications are not privileged.  
11 Those communications we are producing, and have produced. In  
12 fact, we have already produced 16,000 documents related to the  
13 investigation. And as we continue our production, we will  
14 continue to produce thousands of documents relating to the  
15 investigation.

16 What we are objecting to, and only objecting to, is core  
17 attorney/client and work-product communications, such as my law  
18 firm's internal analysis. Such as communications between my  
19 law firm and counsel at Facebook concerning the investigation.

20 What we propose makes sense here is that we conclude our  
21 production relating to this internal investigation. And once  
22 plaintiffs have reviewed these materials and identified apps  
23 that they believe to be relevant, or want -- or -- or want  
24 additional documents, they can issue more tailored requests for  
25 information specific to particular apps.

1       For example, let's assume hypothetically in 2012 there was  
2       some app that did something that the investigation uncovered.  
3       We then, as part of our investigative protocol, communicated  
4       with that app. Call it App X. We wrote them a letter. That  
5       letter will be produced and they will then have the name of  
6       that app. And any communications with that app.

7       In one or two instances, only, we actually -- I think one,  
8       maybe, we filed a lawsuit against a company. That is all  
9       public.

10       After they review those documents, we can take -- we can  
11       then meet and confer, and there can be a live dispute. Right  
12       now, there is no live dispute other than they say they want  
13       everything. And they are focusing on a Massachusetts Superior  
14       Court ruling. And as we told the Court -- which -- which --  
15       which was a motion to compel by the Massachusetts Attorney  
16       General regarding a completely different -- substantially  
17       different document requests than plaintiffs.

18       We objected to that request in Massachusetts because, as  
19       framed, it did invade attorney/client privilege, work product,  
20       and the like. The Superior Court ruled against us.

21       But Facebook took that up to the Supreme Judicial Court in  
22       Massachusetts, and they granted the extraordinary review of the  
23       Superior Court's work product determination. That is in  
24       litigation. And so nothing that's happening in Massachusetts  
25       should either bind or control here.

1           This is not right. When they get the tens of thousands of  
2 documents they will see that there are -- I'm making it up --  
3 ten, 20, 30, 40, 50 different apps -- maybe more, I don't know  
4 the number -- maybe Martie does -- with which we communicated  
5 as a result of our investigation. They'll know the names of  
6 those apps. They can then follow up and ask questions about  
7 those apps. We're going to turn over all those documents.

8           What we're not turning over is our law firm's files, and  
9 our communications with our client that were all pursuant to  
10 this privileged investigation.

11           **THE COURT:** When is that production going to be  
12 complete?

13           **MR. SNYDER:** Martie?

14           **MS. KUTSCHER CLARK:** So we made a production on  
15 Wednesday that included about 10,000 additional pages of  
16 materials with the third parties. We're continuing to review  
17 them. The volume is extraordinarily high, because it includes  
18 every communication with apps about this investigation.

19           I think it would probably take us another several weeks to  
20 work through the rest of the documents. I think it's in the  
21 range of tens of thousands of additional documents to review.  
22 And we're actively working on that.

23           But again, these include every letter that went to an app  
24 saying they were suspended, and why. So once the production is  
25 complete, plaintiffs will have the ability to identify any apps

1 document. So the question is: How do we get there.

2 And I don't think we necessarily need to wait until all  
3 the production is done. I don't think that is the case. The  
4 parties should get together and decide on, you know -- I don't  
5 know what it is that the plaintiffs think necessarily are  
6 there. Maybe Facebook can come up with -- I don't know -- a  
7 hundred documents that you're going to log.

8 **MR. SNYDER:** We can also be helpful, Your Honor.

9 And, and -- because the vast majority -- I think it's  
10 99 percent, but that's just from what my partner, you know,  
11 has allowed to.

12 Since the vast majority are people we wrote to and  
13 suspended because they didn't write back to us, you know, maybe  
14 we can highlight a couple of ones where we had further  
15 activity, they wrote back to us, we engage with them.

16 And then we can go behind the curtain, so to speak, on  
17 your exemplar idea, and we can take a look at what our work  
18 product and attorney/client activity was behind the contain,  
19 look at what engineers were doing, and then figure out how to  
20 tee up a privilege exemplar for handful of apps.

21 **THE COURT:** Well, and for example, Mr. Loeser brought  
22 up like policy (audio interference), things like that. That's  
23 not going to be particular to an app.

24 But maybe plaintiffs can point out, you know, because  
25 what's --